IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

Bail Appl..No. 5506 of 2007()

CRIME NO. 167/07 OF THUMBA POLICE STATION
CRMP.2801/2007 of J.M.F.C.-II,TRIVANDRUM

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PETITIONER/1ST ACCUSED:

SREERAM @ RATHEESH, S/O. SASIKUMAR,
KRWA-9, KORALAMKKUZHI LEKSHMI VEEDU,
NEAR VSSC, KULATHOOR, ATTIPRA VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
REPRESENTING CIRCLE INSPECTOR OF POLICE,
THUMBA POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5506 of 2007

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Dated this the 13th day of September, 2007

O R D E R

Application for regular bail. The petitioner is the first accused. Altogether there are four accused persons. The crime is registered initially under the caption "woman missing". Later on, allegations under Section 364A I.P.C. has been included.

2. The wife of the defacto complainant, a woman aged about 27 years, was found missing. The defacto complainant and the parents of the lady, who are all employed abroad, got information and they came down. It was revealed that the wife of the defacto complainant was having an affair with the petitioner herein and both of them were found missing. Enquiries were made. It became clear that the wife of the defacto complaint had eloped with the petitioner. Days rolled by. The defacto complainant received a telephone call, which informed that his wife along with another was detained and that she can be released if a huge ransom were paid. Negotiation over the phone continued and it is the case of the prosecution that the deal was struck that on payment of Rs.50,000/- the wife shall be

released. The defacto complainant was afraid that harm may be caused to his wife and himself and therefore the F.I. statement was filed without revealing all these facts, but alleging only that the woman was missing. The receipt of telephone call was conveyed in confidence to the police. Attempts were made to apprehend the miscreants when they came to the place, where, as per prior agreement the lady was to be handed back and the ransom amount was to be paid. But before the miscreants reached the intended destination, they were intercepted by the police at Aryankavu Check Post in a vehicle. In that vehicle, in addition to the driver, the petitioner as well as A3 and A4 were present along with the woman. All of them were apprehended.

3. The victim was questioned. The detailes were ascertained. The prosecution now alleges that after the petitioner and the woman left their native place, they had stayed at various places and had ultimately reached the place of abode of A2, A3 and A4. It is the case of the prosecution that accused 1 to 4, in pursuance of their prior design, had contacted the defacto complainant and made demand for money.

4. The petitioner was arrested on 16.8.2007 and he continues in custody even now. A3 and A4 have already been arrested. The wife of the defacto complainant has been left to the custody of the husband and parents.

Accused No.2, who also allegedly played a crucial role in the demand for ransom, has not been arrested yet. Investigation is in progress.

5. The learned counsel for the petitioner submits that at worst the only allegation that can be raised against the petitioner is that he had adulterous sexual intercourse with the wife of the defacto complainant. The petitioner is innocent of the allegations of abduction and demand for ransom. In these circumstances he may now be enlarged on bail, prays the counsel. The learned counsel further alleges that the police had assaulted the petitioner and the petitioner had suffered injuries. He is ill and is undergoing treatment. That is also pressed into service as a ground for grant of bail to the petitioner.

6. The learned Prosecutor opposes the application. He submits that there are strong circumstances which tilt the needle of suspicion towards the petitioner. The statement of the victim woman was read over to me. Indications galore to suggest that the petitioner was acting in collusion with the other miscreants who played the dominant role in the demand for ransom. The learned Prosecutor points out that the petitioner was also happily travelling with A3 and A4, who were bringing the woman, which conduct eloquently conveys the complicity of the petitioner. Investigation is at an early stage. The petitioner may not be released on bail. The

Prosecutor denies the allegation of assault etc. against the petitioner. At any rate, the petitioner is entitled to and shall be given the requisite medical treatment, if any, while in custody, assures the Prosecutor.

7. I have considered all the relevant inputs. In the nature of the contentions, it was felt that the case diary must be perused by this Court. The case diary was perused. I shall at this early stage of investigation scrupulously avoid any detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected or even the efficacy of the Investigation. Suffice it to say that having considered the entire materials available, I am persuaded to agree that the petitioner is not entitled to be enlarged on bail. I find merit in the submission of the Prosecutor that it cannot be assumed that the petitioner, who travelled along with A3 and 4 in the vehicle, did not share the requisite contumacious and culpable common intention along with A3 and a4. In any view of the matter, I am satisfied that the petitioner is not entitled to be enlarged now. In a serious crime like this, the police is entitled to sufficient time to complete the investigation.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the court for

bail again at a later stage of the investigation, not at any rate, prior to 27.9.2007. The police shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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